

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 2:07-cr-262-WKW
	)	
TOMMY LEE MOORE	)	

**ORDER**

This case is before the court on the defendant's Second Motion to Continue Trial (Doc. # 32). The criminal case is currently set for trial during the August 18, 2008 criminal term. For the reasons set forth below, the court finds that the trial should be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. § 3161(c)(1); *see United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any "[a]ny period of delay resulting from other proceedings concerning the defendant, including . . . delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant." 18 U.S.C. § 3161(h)(1)(A).

In Moore's motion to continue, his counsel asserts that a scheduled mental evaluation of the defendant cannot be completed in time for trial. The government does not oppose the motion.

Accordingly, it is ORDERED that the defendant's Second Motion to Continue Trial (Doc. # 32) is GRANTED. Trial in this matter is continued from August 18, 2008, to the undersigned's term of court beginning on **December 1, 2008**.

DONE this 29th day of July, 2008.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE